UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

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CLERK US DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY ________
DEPUTY

ANGEL G. b/n/f VALERIE CROWLEY, *et al.*	§ § §	
Plaintiffs	§ §	
v.	§	A-99-035-WS
TEXAS EDUCATION AGENCY	§ § §	
Defendant	§	

JOINT MOTION FOR APPROVAL AND ENTRY OF CONSENT DECREE

The parties, by and through undersigned counsel, hereby stipulate that they have resolved all remaining matters in the above-captioned case and respectfully move this Court to approve the Consent Decree ("Decree"), attached hereto, and to enter the Decree as an Order of this Court. In support of this motion, the parties state the following:

1. On January 24, 1994, students with disabilities residing in residential facilities ("RFs") in Texas filed this lawsuit alleging violations of the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. §1400 *et seq.*; Section 504 of the Rehabilitation Act ("Section 504"), 29 U.S.C. §794; the Americans with Disabilities Act ("ADA") 42 U.S.C. §12131 *et seq.*; and the Fifth and Fourteenth Amendments of the U.S. Constitution by Defendant, Texas Education Agency ("TEA").

2. Following court-ordered mediation, the parties entered into a *Settlement Agreement* ("Agreement") on July 22, 1996. The following day, the District Court issued an Order Approving and Adopting the Settlement Agreement and retaining jurisdiction to resolve specific disputes as to TEA's monitoring system for RF students.

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3. In 1997, a dispute concerning TEA's monitoring system arose, and as required by the Agreement, the parties again entered mediation. On October 9, 1997, the parties informed the Court of their inability to successfully resolve the issue in contention.

4. In response, the District Court severed the unresolved monitoring issue from those issues that were settled by the 1996 Agreement and assigned the current cause number to this case. In early June 2000, the District Court held an eight (8) day evidentiary hearing to determine the legal sufficiency of TEA's monitoring system as pertaining to students with disabilities residing in RFs.

5. On April 15, 2004, the District Court issued a *Memorandum Order* and *Final Judgment,* with supporting *Findings of Fact and Conclusions of Law*. The Court concluded that "[t]he results of the monitoring plan show that disabled children who reside in RCFs in Texas are being denied a free appropriate public education because TEA has not properly monitored compliance with the IDEA." Specifically, the Court found that TEA must develop a new monitoring system for students with disabilities residing in RFs.

6. TEA filed a Notice of Appeal with the U.S. Court of Appeals for the Fifth Circuit on May 17, 2004. While the appeal was pending, the parties held a number of formal and informal mediation and negotiating sessions, without achieving a final agreement.

7. Oral argument was held before a panel of the Fifth Circuit on April 6, 2005. At the hearing, Judge Carolyn King, on behalf of the panel, strongly encouraged the parties to continue the mediation that was previously begun in June 2004, and set a specific time frame for doing so. To support the parties' efforts to fully resolve this case, Judge King allowed an attorney from the Fifth Circuit's Appellate Conference Program to conduct the mediation between the parties. As a result of this mediation, the parties were able to resolve the monitoring issue in this case, as fully described in the Decree.

8. On July 11, 2005, TEA filed an unopposed motion to dismiss the appeal without prejudice so that the Consent Decree could be entered by the District Court. On July 15, 2005, the U.S. Court of Appeals for the Fifth Circuit dismissed the case without prejudice to the right of either party to reinstate the appeal within 180 days.

9. The Consent Decree settles the remaining monitoring claim against TEA, as well as the payment of attorneys' fees and costs. The parties in this case have authorized counsel to sign the Decree and to seek entry of the Decree by this Court. Jurisdiction is retained by the District Court for purposes of enforcement of the Decree.

10. The parties understand and agree that implementation of the monitoring system for RF students required by the Consent Decree will take some time to implement, and the "phase-in" schedule set out in the Decree is consistent with the best judgment of the parties as to the amount of time it will take for TEA to fully implement this new system. In addition, the parties have structured this Decree to achieve finality at the end of the implementation period, and to require as little Court involvement as possible in the interim. Thus, Paragraph 19 of the Decree states that the Decree "will automatically expire by its own terms on December 21, 2010, unless one or both parties file a motion on or before July 1, 2010, requesting the Court to extend the term of the Consent Decree, and the Court grants this motion prior to December 31, 2010.

THEREFORE, for the reasons set forth above, the Parties respectfully move this Court to approve and enter the attached Consent Decree as an Order of this Court.

Respectfully submitted,

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